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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,088	02/23/2005	Konrad Knoll	12810-00032-US	5946

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EXAMINER

SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/525,088

Applicant(s)

KNOLL ET AL.

Examiner

Kriellion A. Sanders

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nesvadba, US Patent No. 5488117.

Nesvadba discloses polymeric compositions comprising furanone stabilizers that directly correspond to those of applicant's claims. Patentee indicates that the stabilizers may be used in styrene/butadiene polymers and that the polymeric compositions may include organic phosphites, hindered phenols and/or aromatic amines. Patentee discloses the polymers in a generic sense and is therefore silent as to the shape of the polymers, however the use of any specific shape of polymer would be included in the polymers suggested by patentee, including star-shaped. The benzofuranone stabilizers are used in amounts ranging from .0001 to 0.015 weight % of the polymer to be stabilized. The costabilizers are used in amounts ranging from 0.01 to 10.0% based upon the weight of the polymeric matrix. Patentee does not indicate any specific need for pH adjustments to produce the compositions of the invention, and it is expected that none would be necessary unless such an adjustment provides some level of unexpected results. Applicant has not clearly shown that adjusting the pH of the composition during the preparation stage, by using CO₂ and water, provides unexpected results. See col. 10, line 21 through col. 11, line 25, col. 13, lines 20 -67, col. 14, lines 9-26, col. 17, lines 27-44, Example 8.

Response to Arguments

1. Applicant's arguments filed 3/23/06 have been fully considered but they are not persuasive.
2. Applicant argues that Nesvadba does not suggest using a mixture of a benzofuranone derivative B, an organic phosphate C and a sterically hindered phenol or aromatic amine D when the polymer is a styrene-diene block copolymer from the myriad of possibilities mentioned therein. This argument has not been found to be persuasive because Nesvadba discloses polymeric compositions that may comprise styrene butadiene copolymers comprising furanone stabilizers that directly correspond to those of applicant's claims. Patentee indicates that the polyolefin or styrene/butadiene polymer compositions may include organic phosphites, hindered phenols and/or aromatic amines.
3. Applicant argues that the Table on page 30 of the specification illustrates that the combined use of stabilizers B, C and D allows for the use of lower levels of stabilizer B than when only stabilizers B and C are used. Applicant indicates this to be a cost effective advantage.
4. Applicant further argues that Nesvadba only indicates these advantages allowing for lower amounts of stabilizer B when used in a polyolefin resin. This argument has not been found to be persuasive Nesvadba suggests all components of the presently claimed invention. Nesvadba also suggests utilizing the benzofuranone component B in an amount of 0.0005 to 5.0%. See col. 10, lines 14-17. The costabilizers such as phosphates and amines are taught by nesvadba to be employed in amounts ranging from 0.01 to 10.0 % based on the total composition. See col. 14, lines 53-55.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

X and Y references cited in the International Search Report and not relied upon herein provide cumulative teachings.

Prior art cited on form 1449 must include a month and year of publication to be fully considered.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 6:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kriellion A. Sanders
Primary Examiner
Art Unit 1714

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